

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
March 24, 2014 at 6:00 P.M.

PLEDGE OF ALLEGIANCE: A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Tina Baxter, Terry Dayvolt, Chelsi Grove, Don Mottley, Mike Winge, Jeff Valiant and Jeff Willis.

Also present were Morrie Doll, Attorney, Sheila Lacer, Assistant Director, and Jamie Key, Staff.

MEMBERS ABSENT: None

MINUTES: Upon a motion made by Terry Dayvolt and seconded by Mike Winge, the minutes of the last regular meeting held February 24, 2014 were approved as circulated.

SPECIAL USE:

BZA-SU-14-04

APPLICANT: AT&T Mobility, Brian Ramirez

OWNER: Charles Hirschelman

PREMISES: Property located on the E side of Libbert Rd. approximately 1020' N of the intersection formed by Libbert Rd. (W 900) & Calvin Circle. Ohio Twp. (Complete legal on file) 2266 Libbert Road

NATURE OF CASE: Applicant requests a Special Use, SU 18 from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for a 156' monopole tower and associated equipment and equipment shelter to be within a 100'x100' lease area with a 25' access & utility easements in an "A" Agriculture zoning district. *Advertised in the Standard March 13, 2014.*

Robert Campbell with AT&T Mobility was present.

The Chairman called for a staff report.

Mrs. Lacer stated we have all return receipts except for Richard & Charlotte Nixon and Bruce & Angela Myers. She said all were mailed within 21 day notice and to address on file in Auditor's Office. Mrs. Lacer said this Special Use – SU 18 is to allow a 156' monopole tower and associated equipment and equipment shelter within a 100'x100' lease area with access by a 25' easement. She said the applicant has answered the proposed use statements on the application and has submitted a report explaining the site development process in selecting this location.

She added that the report states in conclusion “Applicant’s site identification and selection process aims to identify the least intrusive of all the technically feasible parcels in a service need area.” She said in this case, the property meets the radio frequency site design objective, has adequate distance from all residential structures in all directions, and is constructible. Mrs. Lacer added that with a Special Use 18, all towers need to be 2 feet away from every foot of the tower height from any residential structure and this tower meets all guidelines. She also said to the Board members that this is shown in your packets. Mrs. Lacer said that this property is vacant and the surrounding property to the North is mostly vacant Agriculture (1 residence on 32 acre parcel); East is vacant Agriculture; West is vacant Agriculture and Southwest corner is R-1A with a residence. She said to the south of the entire property is R-1 being Pleasant Valley Sec. 2. She added that according to the plot plan provided by the applicant the center of the tower is 650’ 8” from the southern property line and the closest residence in Pleasant Valley is 693’. (Page C-2) She said that Mr. Hirschelman’s property is approximately 22 acres and there is some zone AE Flood Plain on this property, some 500 year flood plain and zone X (which is no flood plain). She said there is a certification on the submitted plans from AT&T that the tower location appears to be within the zoned X (which is no flood plain).

Mrs. Lacer said that the property does access Libbert Road and they will have to obtain a utility entrance from the County Highway Engineer and they do have a signed lease agreement. Mrs. Lacer said that we also received an email of remonstrance from Mary Beth Johnson (which is in all Board members packets). She stated that it reads the appeals hearing is scheduled for Monday March 24th and she lives on Calvin Circle and she will be out of town the day of the meeting. She asks if there is any other option to voice concerns about the installations of the cell tower and that they strongly urge that the zoning is denied, as it will adversely affect the property value of the homes in the neighborhood. Mrs. Lacer states that Mary Beth Johnson had sent this email to Mrs. Rector and she replied back to them that they could fill out a different letter and they chose to leave their email as submitted. She stated that the application is in order.

The Chairman asked if there was anything that Mr. Campbell wanted to add.

Mr. Campbell replied that it was very well said and that Mrs. Lacer covered it all.

The Chairman asked if there are any questions from the Board.

Don Mottley said there was one dealt with a few years ago on HWY 66 and Bell Road that was Kenny Ubelhor’s property, is this close to that one?

Morrie Doll answered that it is not close to it, this one is over by Telephone Road . He said it is South West of Chandler. He asked what the question was.

Don Mottley said that previously we had them before when they are getting too close to each other and questioned if they could operate from the other tower.

Mrs. Lacer stated that in the application with the Special Use requirements they have to answer those questions. She also said that there is quite a bit of information in the packets, but she does believe that they have addressed that.

Mr. Campbell said that is correct, and he is not sure of the one that Don Mottley is referring to. He said the first thing they always do is look for any existing vertical real estate, if it be a tower, water tank, or tall building. He said they always look for these opportunities first. He said in this case the next set of towers in that general vicinity, AT&T is already located on those structures. He said the idea of this one is to fill in the gap.

Attorney Doll said that they are listed in Exhibit A.

Mr. Campbell said that is correct.

Attorney Doll said the colored map Exhibit A shows the 3 other existing towers.

Mr. Campbell said there is actually a fourth as well.

Attorney Doll agrees and he said it's out West next to I64.

Mr. Campbell said they are existing sites that AT&T has equipment. He said it can be on their structure or collocated onto another structure. He added that you can see that it is designed to fill the void.

Attorney Doll said that there is actually a 5th site on the very bottom as well.

Mr. Campbell said yes, I see that.

The Chairman asked if there were any other questions from the Board.

Terry Dayvolt asked if the tower was low enough that it does not have to have a strobe or any lighting on it.

Mr. Campbell replied that it is short enough and that it is not required to be lit. He said the FAA requires anything over 199 foot to be lit he said that this one is 156 total. He said there has been a passing interspace study that once that's the case there is no lighting is required.

Terry Dayvolt asked what the ranges on these towers were.

Mr. Campbell replied that generally they are trying to fill gaps and that it's for coverage and increase of data. He said that they currently have a void along Libbert Road.

The Chairman asked if there were any other questions from the Board.

The Chairman asked for any remonstrators for or against this project to step to the podium and state your name and sign in.

Charles Hirschelman the owner of the property approached the podium. He said that he is for the project. He said as far as the question on the lights, he said that was his biggest concern that he

had. He said that he was told that the height of the structure it will not need lights. He added that his property is all fields and has been in his family for over 100 years. He said almost half of the property in the front is in the flood plain and they will be up on the hill and 600 something feet away from the Pleasant Valley. He added that to the North is Joyce Angel (which is her farm there) and he lives at 9000 Telephone Road. He said he would like to see the tower put in.

Terry Dayvolt asked Mr. Hirschelman if it is or isn't in the flood plain.

Charles Hirschelman replied that no it is not in the flood plain, he said surrounding land is but the hill raises about 25-30 feet and takes it out of the flood plain.

The Chairman asked for any other remonstrators for or against this project.

Chenzhong Kuang lives in Pleasant Valley on Calvin Circle. He said he is 700 feet away from the tower that wants to be built. He said this is his first time to attend a public hearing. He added that he is a doctor of neuroscience and graduated from IU medical school a few years ago. He said he wanted to express his concerns about the tower. He said this tower has high frequencies, and will be close to residences. He told the audience and the Board that he wanted to give everyone examples and history. He said an American, Percy Spencer invented the microwave oven on accident about eighty years ago. He said the frequency using wireless communication in a microwave oven that you use in your household is quite similar. He said in that case, Percy Spencer did not graduate from MIT or any school such as him, he barely graduated from grammar school. He said when he joined the navy he became the expert. He said one day he was approaching where he was going and he found that the chocolate bar in his pocket that had started to melt and that was the first identification of the microwave. He said this eventually started the microwave that you have today. Mr. Kuang said this wireless communication is quite the same as the microwave. He said for example, if you use your computer within range of your microwave and try to connect to the internet, your internet will be interrupted. Mr. Kuang said there are two things that he wants to illustrate. First, there is still potential health risks to have a cell phone tower close to residences, within 1000 feet. Secondly, in January 2008, an arm of The National Research Council issued a report saying that they cannot know enough about the potential health risk in long term exposed to the RF energy, in this case related to the cell phone tower. He said that from the cell phone, the cell phone tower, TV Towers and other components of our communication system, there are unknown risks to children's health and pregnant women as well as workers that are around the high exposure of RF Energy. He said his main and first concern is the health risks as well as the tower being so close to his house as well as his community. He said that secondly the tower being so close will decrease the value of his property and his home as well as his neighbors. He said that the Nationals Realtors Research says that if your house is by a cell phone tower it will decrease the value of their home by least 20 percent. He said his third concern is that he is an AT&T user and he has good service and coverage in this area. He said AT&T already covers his neighborhood and it is not necessary to build a new tower in his neighborhood. He said his other concerns are that, this tower will change the character of his community. He said his house faces the corn field and it is so beautiful and natural. He added that if a cell phone tower is built in front of his backyard window, it will change the charm dramatically and it is not a good idea in his opinion. He said that in Newburgh it will take away the charm and that he opposes sincerely deeply from his heart

and he wishes that the Board delays this process or goes against this tower in this area and that they move it to the South, West or any other place, but not in any residential area.

Terry Dayvolt asked Mr. Kuang if he or any of the research he talked about has any information on the frequencies because he is familiar with this. He asked why there is a certain distance that makes a tower safe.

Mr. Kuang replied that even though there is no conclusive research about the frequencies using wireless communication, in America a tower has to be 300 feet away but in Canada it has to be 13,000 feet. He said so right now there is no conclusion but we cannot rule out all of the potential risks for health. He added that we cannot let our children take any risk for their health. He said think about the pregnant women and their fetus in their body. He said these are his biggest concerns.

Terry Dayvolt asked Mr. Kuang if he has a microwave in his house.

Mr. Kuang said yes he does. He said that his family limits the use of the microwave. He said they barely use it, because they know it interferes with internet connection.

Terry Dayvolt asked Mr. Kuang if he is afraid of the microwave in the house.

Mr. Kuang said no he is not afraid, but the cell phone tower will have a 24 hour a day, 7 days a week and 365 days of the year effect of their frequencies around their house. He said that this will be a long term exposure and that a microwave is short term and pretty much protected by metal. He said this cell phone tower will have all kinds of signals through the air and that the Board cannot rule out all of the potential health risks.

The Chairman said thank you sir.

Robert Campbell came back up to the podium. He said that as far as the health issues go, this is not new technology. He added that there are sites built to residences a lot closer than this one. He said the Telecommunications Act of 1996 has been studied and it has been determined that there are no health effects from cell sites. He said that the Federal Government even states this. He said he just wanted to address this, thank you.

The Chairman asked if they ever looked at the decrease of value and if it ever is an issue with other sites.

Robert Campbell said that this is a common argument and it's not in his backyard. He said that there are studies out there that show that there is no adverse effect to property values. He said he does have access to a property report in Carmel, which is a very nice city outside of Indianapolis.

Don Mottley said that the Federal Communications Act of 1996 states that the Board of Zoning Appeals cannot rule on medical issues like this, because we are not experts.

Attorney Doll added that Don is correct.

The Chairman asked if there were any other question to the Board or any other remonstrators for or against this project.

Terry Dayvolt asked how many people live in this subdivision.

Mrs. Lacer said there might be 10 houses on each street.

Chenzhong Kuang said there are 8 houses facing directly to the cell phone tower, he added that the community is about 50 houses in the subdivision.

Mrs. Lacer said that she is looking at an aerial and it looks like about 8-10 houses that would be facing the tower and then there are houses across the street and then down.

The Chairman asked Morrie if he had any thoughts on this.

Attorney Doll replied that the Telecommunications Act of 1996 of the supremacy clause and the constitution and the commerce clause forbids state and local government authorities in regulation placement, construction, or modification of personal wireless service facility such as a cell tower. He said we cannot unreasonably discriminate among providers of functionally equivalent services, meaning that if we have approved a Verizon tower that has the same types of frequencies or strength of broadcast then we cannot disapprove an AT&T or T-Mobile or someone that has the same equipment. He added that we also cannot prohibit allowing personal wireless services to be throughout the territory of our jurisdiction. He said that in fact as long as they comply with placement and zoning then we are not allowed to consider the doctors representation about health hazards. He said they are beyond our scope of evaluation and it is his advice that although there is a great deal of concern even among providers of the cell tower service it can't have any bearing in the consideration of the application.

Ascertaining no questions from the Board and no remonstrators present the Chairman called for a motion.

Tina Baxter, made a motion the finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.

6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

- a) Subject to any required State of Federal Permits.
- b) Subject to any required Building Permit from the Warrick County Building Department.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinance of Warrick County.
- d) Subject to all public utility easements and facilities in place.
- e) Subject to the following from the Warrick County Comprehensive Zoning Ordinance:

Each operator of a telecommunications facility must send to the Area Plan Commission a copy of any notice sent to the FCC of intention to cease operations. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the Board of Zoning Appeals. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted prior to issuance of the required improvement location permit, shall be incorporated as part of the permit, and permit approval shall be conditioned upon removal of the structures(s) within six removed within six (6) months after cessation of the use. In the event that the tower is not removed within six (6) months of the cessation of operations at a site, the tower and associated facilities may be removed by the County and the costs of removal assessed against the property. (pg. 35)

- f) Subject to an anti-climbing device and/or fence be put up around tower.
- g) Subject to obtaining an Improvement Location Permit.
- h) Subject to obtaining a utility driveway permit

The motion was seconded by Don Mottley and opposed by Chelsi Grove and unanimously carried.

Mrs. Lacer said that the approval will be ready by Wednesday March 26th.

The Chairman stated that the next items on the agendas are two variances and he said they deal with each other so we will address them at the same time.

BZA-V-14-05

APPLICANTS: Dean & Faith Reibold

OWNERS: Dean & Faith Reibold.

OWNERS OF EASEMENT: Jonathon Shane & Melissa Minton and Donnie R. & Michelle L. Kolley

PREMISES AFFECTED: Easement located on the N side of 4th St. approximately 144' W of the intersection formed by 4th St. & 2nd St. Town of Lynnville. Property located 2170' N of 4th St. Hart Twp. (Complete legal on file) 402 4th Street

NATURE OF CASE: Applicants request a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN. to allow an application be filed not meeting the requirement of all landowners signing application in an "A" Agriculture and an "R-1A" One Family Dwelling zoning district. *Advertised in the Standard March 13, 2014.*

BZA-V-14-06

APPLICANTS: Dean & Faith Reibold

OWNERS: Dean & Faith Reibold.

OWNERS OF EASEMENT: Jonathon Shane & Melissa Minton and Donnie R. & Michelle L. Kolley

PREMISES AFFECTED: Easement located on the N side of 4th St. approximately 144' W of the intersection formed by 4th St. & 2nd St. Town of Lynnville. Property located 2170' N of 4th St. Hart Twp. (Complete legal on file) 402 4th Street

NATURE OF CASE: Applicants request a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN. to allow an Improvement Location Permit to be issued for the reconstruction of a single family dwelling on property not having road frontage on a dedicated and maintained roadway with access by a 25' ingress/egress easement only in an "A" Agriculture and an "R-1A" One Family Dwelling zoning district. *Advertised in the Standard March 13, 2014.*

The Chairman asked for the applicants to approach the podium, state their names, and sign in.

Dean and faith Reibold approached the podium.

Mrs. Lacer stated that the report for both variances will be very similar. She said they mailed both notices in the same envelope and received all of them from certified mail of notice to adjacent property owners. She said as stated Mr. and Mrs. Reibold own the property where the residence is, however it is accessed only by an easement and the owners of the easement are Jonathon Shane & Melissa Minton and Donnie R. & Michelle L. Kolley. She said they are asking for a Variance to allow an application be filed not meeting the requirement of all landowners signing application in an "A" Agriculture and an "R-1A" One Family Dwelling zoning district. She said their statement on the application is *Our house burned down. We have access by easement that crosses 2 property owners. One of the owners is refusing to sign to allow us to rebuild.* She stated that the Reibold's purchased this property in 1994 with an existing house and access by easement. She said their house burned down a couple of months ago and when they came into the office to inquire about a permit to rebuild it was discovered the property was not divided per the Subdivision Control Ordinance and they would need to file a Variance in order to get a permit to re-build their house. She said that since there were some time constraints Sherri Rector was going to hold a Hearing Officer for them and explained that they needed to fill out their application and have all owners sign it and then take it to all the

adjacent property owners and have them sign a statement of non-objection. She said that was not able to happen because one of the owners of the easement (The Minton's) refused to sign the application. She added that since the deeds to the property clearly state the easement is in place, Attorney Doll advised they would need to file two Variances. She said this Variance is requesting the application not to have all the owners' signatures and the next Variance is to allow the Improvement Location Permit to be issued on property with access by easement only. She added that Variance is next on the agenda. She said the staff report for that Variance is basically the same. She added that the Reibolds had absolutely nothing to do with how the property was split up. She said that the house was constructed years ago all on one piece of property. She said that the previous owner sold it, created an easement and they bought it from the second owner. She said they have not created this themselves and that is something we take into consideration. She said that the property currently has an unattached accessory building on it. She said to the North is Agriculture with a residence; South is vacant Agriculture East is agriculture with barn, West, R-1A with residences. She said that the easement comes off 4th Street and is partially located within Lynnville. She added that the actual property lies in Hart Township. She said that they have a letter submitted from the Health Department saying there is an existing system on the property and that no other permit will be required and this system was designed to accommodate their home. She said that normally when properties are accessed by easement this Board requires a hold harmless agreement to be entered into. She said one has been prepared and sent to Attorney Doll for review and he said it is a standard hold harmless and he was fine with what was submitted to him. She said we will have to give it to the Reibolds so that they can take it, review it, and sign it.

Terry Dayvolt asked Sheila Lacer if there was a recorded easement.

Mrs. Lacer replied that it is in their deed and this was a very difficult legal. She said it was a 25 foot roadway and it was supposed to follow a Vectren easement. She said it was the actual driveway to the house. She said when Eddy Brown originally owned the property he sold it off. She said he sold some off to the Kolley's and the house to someone else and the other person sold the house to the Reibolds. She said he split it up and gave it an access by easement, and if it would have come through the Planning Commission this would have never happened because it would have had to had its own road frontage.

Attorney Doll said if you look at the packet, there is a copy of the warranty deed to Mr. and Mrs. Reibold from the prior owner. He said about two-thirds of the way down you will find the perpetual language of the easement which is quite strong. He said granted to the Reidbolds, not only an easement but a perpetual easement, a forever easement, over the portion of the sellers remaining real state which at that time was 92.15 acres. He said it was for an easement being 25 feet in width and running adjacent to, as Sheila said and immediately to the east of the eastern edge of the public service of Indiana utility easement of 1985. He said the easement shall run with grantors land and grantees land (these folks being the grantees). He said that it runs with the land and the title thereto and binding of the party hereto there heirs, successors, and sons. He added that the grantees property being the dominant tenant under the law of easement you have a subservient use and a dominant use. He said that one serves the other and in effect, one controls the other. Attorney Doll added that in the language of the Reibolds deed, their rights control this lane, it is the dominant right. He said it is dominant under the grantors land described above for

driveway easement purposes. He said that doesn't mean it can be used for other purposes, such as a lake, or something else. He said for driveway purposes its perpetual, it runs with the land, and it's the dominant tenants. He said that for that reason he advised Sherri Rector that if the Reibolds have a recalcitrant land owner who had an interest, who was unwilling to sign. He said his advice to the Board of Zoning Appeals is that this is the equivalency of ownership to the right of way to the lane and their signature would be unnecessary. Attorney Doll added that you still have to give them the Variance from the requirement that says all applications are signed by each property.

Mr. Reibold asked if they are forgoing the signing of the Minton's.

Attorney Doll said because of the strong language in the deed it created your rights it's unnecessary and that is his advice to the Board.

The Chairman asked if they had anything to add.

Mrs. Reibold replied that we covered it all and they are sorry that they had to be here, because since this has happened Mr. Minton called and said he would sign but had something come up and could not be here. She added that by that time it was out of their hands.

The Chairman asked for any questions from The Board.

The Chairman asked for any remonstrators in regards to BZA-V-14-05, which is to allow the application to be filed not needing the signatures of all land owners on the application. He asked if anyone was for or against this variance.

Ascertaining no questions from the Board and no remonstrators present the Chairman called for a motion.

Mike Winge, made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the existence of the perpetual easement

with the applicant's property being the dominant tenants over the rights under the easement.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - b) Subject to all utility easement and facilities in place.

The motion was seconded by Don Mottley and unanimously carried.

The Chairman asked for any remonstrators for or against in regards to BZA-V-14-06, which is to allow the Improvement Location Permit to be issued for reconstruction of a SFD on a property, not having road frontage.

Ascertaining no questions from the Board and no remonstrators present the Chairman called for a motion.

Tina Baxter, made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is to prevent the reconstruction of a residence using the existing long standing right of way access.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a.) Subject to an Improvement Location Permit being obtained.
- b.) Subject to a Building Permit being obtained.
- c.) Subject to a Hold Harmless Agreement being executed and recorded.
- d.) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- e.) Subject to all utility easement and facilities in place.

The motion was seconded by Chelsi Grove and unanimously carried.

Mrs. Reibold asked if their house was not completed within 6 months, they do not need to renew the permit.

Attorney Doll said no, you have to ask for the permit within 6 months.

Mrs. Lacer added that once you obtain the permit you have six months to start the house and two years to finish and if it is not finished you can bring it in for us to extend it. She said that she has the hold harmless here and your approvals will be ready on Wednesday and you can bring this back with you and get your permits then if desired.

Mrs. Lacer said for records Don Mottley left at 6:45 p.m.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Upon a motion made by Terry Dayvolt the meeting adjourned at 6:51 p.m. The motion was seconded by Mike Winge and unanimously carried.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held March 24, 2014.

Sheila Lacer, Assistant Director